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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,152	07/10/2008	Yutaka Matsuoka	062003	4579
38834 7590 06/11/2009 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
CHEN, VIVIAN				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
06/11/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,152

Applicant(s)

MATSUOKA ET AL.

Examiner

Vivian Chen

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/DE)
Paper No(s)/Mail Date 2/3/2006; 4/20/2006; 6/4/2009.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities:

Claim 6 is a duplicate of claim 5.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over:

JP 11-246728 (JP '728).

JP '728 discloses a gas barrier coating material comprising ethylene vinyl alcohol (EVOH), an inorganic layered compound, and solvent, wherein the volume ratio of inorganic layered compound to EVOH is 10/1 to 1/100. The EVOH is the product of saponifying ethylene vinyl acetate containing 20-60 mol% ethylene with a degree of saponification of at least 95%. The coating material contains at least 10 wt% solvent. The coating material is formed by mixing the inorganic layered compound in the EVOH and solvent, wherein the resultant solution is mixed using a high pressure dispersion apparatus wherein the pressure is at least 100 kgf/cm².

The coating is applied to a substrate (e.g., polyethylene, polyethylene terephthalate, cellulosic materials, etc.) at typical coating thicknesses of 30 microns or less. The coated substrates are suitable for forming packaging materials. (entire document, e.g., paragraphs 6, 8, 15-16, 19-20, 23, 27, 55-60, 62, etc.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to adjust the amount of solids in the coating material of JP '728 depending on the method of application to substrates. One of ordinary skill in the art would have applied the coating composition to cellulosic substrates (e.g., paper) or plastic substrates commonly used in packaging applications to form conventional packages and/or containers (e.g., cups, trays, etc.) by conventional forming and shaping methods.(claim 5-8).

4. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over:

JP 11-246728 (JP '728),

as applied to claim 1,

and further in view of KOTANI ET AL (US 5,766,751).

KOTANI ET AL '751 discloses that it is well known in the art to apply EVOH-based coatings containing inorganic layered compounds to paper and plastic substrates, wherein the coated substrates can be shaped or processed to form packaging, containers, bottles, trays, cups, etc. (line 60, col. 15 to line 44, col. 16; line 10-20, col. 17)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the coating composition of JP '728 to cellulosic substrates (e.g., paper) or

plastic substrates commonly used in packaging applications to form conventional packages and/or containers (e.g., cups, trays, etc.) by conventional forming and shaping methods.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho, can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 5, 2009

/Vivian Chen/

Primary Examiner, Art Unit 1794